

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Carlos Montoya, et al.,

Plaintiffs

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Defendants

2:16-cv-00032-JAD-VCF

Order Dismissing Claims

[ECF No. 48]

9 Carlos Montoya, Maria Landeros, and the estate of Eric Montoya sued the United States of
10 America, the Las Vegas Metropolitan Police Department (“Metro”), its sheriff Douglas Gillespie,
11 Deputy District Attorney Danielle K. Pieper, four law-enforcement officers, and inmate Raul
12 Gonzales in connection with Eric Montoya’s death. They alleged that Metro, the FBI, and District
13 Attorney Pieper recruited Gonzales to be a police informant; but Gonzales—a violent gang member
14 with a long criminal record—perpetrated crime instead of investigating it, ultimately shooting and
15 killing Montoya in order to keep his status as an informant a secret.¹

16 In June, I dismissed plaintiffs' claims against Metro, Sheriff Gillespie, and Pieper with leave
17 to file an amended complaint by July 18, 2016, if they could plead true facts showing that (1) Pieper
18 stepped into the shoes of law enforcement, (2) Sheriff Gillespie was personally involved in the
19 events leading to Montoya's death, or (3) Metro had an unwritten custom, policy, or history of
20 recruiting violent criminals as informants.² I expressly cautioned that, if plaintiffs did not timely file
21 an amended complaint, "this case w[ould] proceed against just two defendants: Marty LNU and Raul
22 Gonzales."³

23 In that same order, I gave plaintiffs until July 18, 2016, to show cause why the claims against

²⁶ *See generally* ECF No. 1.

27 || ² ECF No. 44.

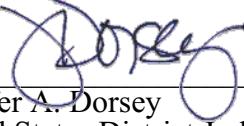
28 || ³ *Id.* at 16.

1 “Marty LNU,” a yet unserved doe-styled defendant, should not be dismissed under FRCP 4m.⁴ The
2 July 18, 2016, deadline passed more than six weeks ago and plaintiffs did not file an amended
3 complaint, show cause why their claims against Marty LNU should not be dismissed, or request an
4 extension of time to do so.⁵

5 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

- 6 • **All claims against defendant Marty LNU are DISMISSED without prejudice**
7 under FRCP 4(m) because it does not appear that this defendant was served within 90
8 days of the complaint’s filing⁶;
- 9 • **All claims against defendant Pieper are DISMISSED with prejudice** because
10 plaintiffs’ failure to file an amended complaint demonstrates that further amendment
11 would be futile;
- 12 • Defendant Pieper’s Motion for Involuntary Dismissal [ECF No. 48] is **DENIED** as
13 moot;
- 14 • **All claims against defendants Metro and Sheriff Gillespie are DISMISSED with**
15 **prejudice** because plaintiffs’ failure to file an amended complaint demonstrates that
16 further amendment would be futile;
- 17 • This case proceeds against one remaining defendant: Raul Gonzales.

18 Dated this 8th day of September, 2016.

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20 
21 Jennifer A. Dorsey
United States District Judge

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25 ⁴ *Id.* at 7, n.44; 16 (LNU stands for “Last Name Unknown”).

26 ⁵ Plaintiffs appealed my dismissal of their claims against defendants Richard Smith, David Sazer,
27 and Michael Twomey based on qualified immunity, but they do not challenge the remainder of my
dismissal order. *See* ECF No. 45.

28 ⁶ *See* ECF Nos. 1 (complaint, filed 1/7/16); 44 (order to show cause).